IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4167 of 1994

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

RAMESHBHAI V GOL

Versus

PRINCIPAL C

Appearance:

MR BIPIN P JASANI for Petitioner No. 1

RULE SERVED for Respondent No. 1,4

Mr.Archana Raval, Assistant GOVERNMENT PLEADER, for Respondent No. 2-3

CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 14/07/2004

ORAL JUDGEMENT

By filing this petition, the petitioner has prayed that the order passed by the Gujarat Secondary Education Tribunal rendered in Application No.443 of

1993, may be quashed and set aside and the respondent No.1 be directed not to withhold promotion to the petitioner.

The petitioner approached the Gujarat Secondary Education Tribunal by way of the aforesaid application, as he was aggrieved by the decision of the School Management in not considering his case for promotion to the post of Clerk from the post of Peon. The Tribunal, after considering the strength of the students, came to the conclusion that since the post of Junior Clerk is not available, there is no question of giving promotion to the petitioner to the aforesaid post. The Tribunal has observed that as and when the strength of the school is increased upto 1250, the School will be entitled to one more post of a Senior Clerk and, at that time, the petitioner may put forward his claim for getting promotion to the aforesaid post. By observing so, the Tribunal has rejected the said application, which order is impugned in this petition.

Mr.Jasani, learned Advocate appearing for the petitioner, submitted that, during the pendency of this petition, the petitioner has already been promoted as Junior Clerk in view of the permission granted by the Commissioner of Higher Education. Such promotion is given with effect from 22.2.1999 and his pay is also accordingly fixed. At the request of Mr.Jasani, the said order is kept on record.

In view of the aforesaid subsequent event, so far as the demand of the petitioner for getting promotion is concerned, the same is satisfied. Mr.Jasani, however, submitted that for getting deemed date of promotion, the petitioner would like to make a representation. Since substantial grievance of the petitioner is satisfied, regarding deemed date, if the petitioner makes any representation, the authority may dispose of the same in accordance with law and within a period of three months from the date of receipt of the same. The representation may be decided as per the Rules and Regulations. On this aspect of the matter, this Court has not expressed any opinion.

It is, therefore, directed that in case the petitioner makes any representation in this behalf regarding giving deemed date, respondent No.2 may decide the same in accordance with the Rules and Regulations and such representation may be disposed of within a period of three months from the date of receipt of such representation.

In view of what is stated above, this petition is disposed of, subject to the direction regarding deciding the representation of the petitioner within the stipulated time.

Rule is discharged. No costs.

14th July, 2004 (P.B. Majmudar, J.)

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(apj)